

INFORMAL PROBATE

3

Administering and Accounting as Personal Representative Before Closing the Estate (Instruction Packet)

SELF SERVICE CENTER

INFORMAL PROBATE
ADMINISTERING AND ACCOUNTING BEFORE
CLOSING THE ESTATE

Part 3: Instructions

How to assemble these documents:

This packet contains general information and/or instructions about administering and accounting before closing the estate as personal representative, whether there was a will or not. Be sure the documents are in the following order:

Order	File Number	Title	No. Pp.
1	PBIPF5it	Table of instructions in this packet	1
2	PBIPF50p	Procedures: When and How to File the <i>“Petition for Approval of Accounting, Approval of Fees, and Deed of Distribution”</i>	2
3	PBIPF52i	Instructions: <i>“Simplified Accounting Guidelines for Probate Accounts”</i>	3

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PROCEDURES: WHEN AND HOW TO FILE PETITION FOR APPROVAL OF FINAL ACCOUNTING, AND APPROVAL OF FEES (if applicable)

WHEN TO FILE THE PETITION FOR APPROVAL OF FINAL ACCOUNTING, DEED OF DISTRIBUTION and/or FEES. Follow the instructions below to find out what forms you need to fill out and how often you must fill out the forms.

- ✓ **Petition for Approval of Accounting:** At the end of the case, prior to closing the case, you **may** file a Petition to ask the court to approve how the estate was managed. You are not required to file a Petition for Approval of Accounting, but you can file this Petition if you want the court to do a formal closing, or if you have some accounting or distributions issues that you want the court to resolve. To help you complete the Petition, you should read and follow the ACCOUNTING GUIDELINES in the instruction packet.
- ✓ **Deed of Distribution:** The Deed of Distribution **must** be used to transfer any real estate/real property. After all claims have been settled and you are ready to transfer the property to someone, you need to fill out the Deed of Distribution and mail a copy to all interested persons. File the original Deed with the Probate Registrar, and obtain two certified copies--one for your file and one to record with the County Recorder.
- ✓ **Fee Statement:** If you or anyone else is charging fees to the estate, the Petition must also include a request for approval of the Fee Statement, and attach a copy of the Fee Statement.

HOW TO FILE THE PETITION FOR APPROVAL OF ACCOUNTING OR FEES if you choose to file this document. Remember you do not have to file this document unless you want to see the judge regarding some accounting issues.

STEP 1 COMPLETE THE PETITION FOR APPROVAL OF ACCOUNTING AND/OR FEES:

Complete the Petition, the Accounting and the Account Summary. If you are claiming fees, you must also complete the Fee Statement.

STEP 2 COPIES: Make copies of all of the documents: one set for you, one set for the court accountant, and one set for each of the interested parties.

STEP 3 FILE THE DOCUMENTS WITH THE COURT: File the original with the Probate Clerk of Court. Go to the same court location where your case is pending (Phoenix or Mesa). Bring the extra copies of the Petition, the Accounting, and the Fee statement (if applicable) for the Clerk to stamp for you. The Probate Clerk of the Court will keep the original for the Court file and a copy for the Court Accountant. The Probate Clerk will give the copies for you and the other interested parties back. You can also mail the documents to the Probate Clerk at the same location where your case is pending.

Phoenix Location

Superior Court of Arizona in Maricopa County
Clerk of the Court - Probate
125 West Washington
Phoenix, Arizona 85003

Mesa Location

Superior Court of Arizona in Maricopa County
Clerk of the Court - Probate
222 East Javelina Drive
Mesa, Arizona 85210

After the Court Accountant completes a review of your case, you will receive a written notice from the Court. You will receive one of two possible notices:

Notice 1: You will be asked to file a **Response to the Court Accountant Report** if the Court Accountant has concerns about the report. If you are required to file a Response to the Court Accountant Report, you must send a copy of the Response to Court Accountant Report to the same people entitled to receive the Notice of Hearing (notice is explained below). Bring the original plus at least four (4) copies to the Probate Clerk of the Court for filing and distribution of copies in the same manner explained above.

OR

Notice 2: If the Court Accountant does not have concerns and recommends approval of your Accounting, the Court will set a non-appearance hearing and will notify you by mail of the date, time, place, and Commissioner assigned to your case for the non-appearance hearing. (In some cases, the Court may set a hearing and require you to file a **Response to Court Accountant Report.**)

STEP 4 GIVE NOTICE OF THE “NON-APPEARANCE” HEARING TO EVERYONE

ENTITLED TO NOTICE: After you receive the information about the date, time, and place of the “non-appearance” hearing, you must give notice to all interested persons. Be sure that you do this at least 14 days before the hearing. You do not need to give formal notice by personal service, but **you do need to mail or deliver the Notice of Hearing and a copy of the Accounting to the other interested parties.** First class postage-prepaid mail is sufficient. Certified or Registered mail is an extra step you can take to prove that the person you want to have notice did get the notice.

STEP 5 Give copies of everything to the Commissioner: At least 10 days before your non-appearance hearing, mail or hand-deliver the following documents to the commissioner who is hearing your case. All the copies must be the ones that you had stamped by the Clerk of Court when you filed the original:

- ◆ Copy of Notice of Hearing
- ◆ Copy of Proof of Notice
- ◆ Original and 2 copies of the Order Regarding Petition for Approval of Accounting.
- ◆ Copy of the Petition for approval of accounting.

You do not need to come to the “non-appearance” hearing. The purpose of a “non-appearance” hearing is to give persons who object to the paperwork the opportunity to let the Judge or Commissioner know they have an objection. So, if someone shows up at the scheduled “non appearance hearing”, the Court will reset the hearing for a new date, time and place. You will get notice of the new hearing date in the mail from the Court. If you receive a new hearing date, you must go to the hearing.

Court approval of the annual accounting and fees is required. At or after the “non-appearance” hearing date, the Judge or Commissioner will decide whether to approve the petition, or ask you to give additional information. If the petition is not approved, be sure to follow the instructions on the court order you receive from the Judge or Commissioner.

OTHER HELP: If you still have questions about this procedure, you can ask a lawyer for legal advice. You can look up a lawyer in the telephone book under “attorneys”. Also, the Self-Service Center has a list of lawyers who will help you help yourself.

SELF SERVICE CENTER

INSTRUCTIONS: SIMPLIFIED ACCOUNTING GUIDELINES FOR PROBATE ACCOUNTS

READ ME The court accountant has prepared Accounting Guidelines for Probate Accounts. This is a SIMPLIFIED version of the guidelines to help non-accountants and non-lawyers complete the court paperwork. To use these Simplified Guidelines, you should have a copy of the Superior Court Form for Submission of Final Accounting. If you are not sure how to complete the court papers, contact an accountant or a lawyer for help.

BACKGROUND INFORMATION. The following information is to assist you in preparing an account of the estate for approval by the judge. The purpose of an account is to present financial information in a format which is meaningful to the interested parties. The account should be understood by persons who are not accountants and lawyers. The information should be presented in a simple but complete format to help everyone understand the administration of the estate. Parties should easily be able to determine what came into the estate, what went out, and what is left in the estate at the end of the accounting period.

1. **Time period:** Write in the dates for which this accounting was prepared (for example: March 1, 1995 to February 28, 1996).
2. **Bond:** If this applies to your case, write in the current bond amount. Write in the amount the bond should be increased or decreased to based on the amount that will cover the estate's unrestricted assets plus the unrestricted income for the next accounting period (generally one year).

ACCOUNT SUMMARY:

INSTRUCTIONS: Complete lists A through F. Then, write the final amounts from each list on the Account Summary.

LIST A:

BEGINNING BALANCE:

- ◆ If this is the First Account, use the Inventory and Appraisement figure you submitted when you were appointed conservator. If this is the Second Account or any other account, use the same information you used as the ending balance for the previous Account. You can copy the ending balance from the previous account and write in LIST A.
- ◆ List the account numbers and institution for all bank accounts. List all assets with an adequate description so that the asset can be located and identified (addresses of properties, year, make, and model of vehicles, insurance company name and policy number, and so forth). List life insurance policies at cash value (or if a carrying value is used, then report the cash value in the Information Schedule on Investments).
- ◆ Include with the beginning and ending assets all information about any debts owed or liens on the assets, like a house or automobile. Include the following information about the debt or lien: the payee, the principal balance, interest rate, and the pay-off date. Be sure that if any assets are restricted you label them "restricted."

After you finish List A, put the total at the bottom of the page on line A of page 1.

LIST B:

MONEY RECEIVED DURING THIS ACCOUNT PERIOD:

- ◆ Only list items which represent income to the estate during this account period.
- ◆ Itemize all money received by date of receipt, payer, description by type of receipt (interest income, dividends, social security, and so forth), and other details to identify the income source (such as account numbers), and amount. If you have a lot of receipts (more than two pages for List B), group some receipts together. For example, report the total interest earned from one particular account on one line. In addition, if you group the receipts together, you must keep a back-up schedule detailing the money received under each group and attach a copy of the back-up schedule to this form.
- ◆ Do not include transfers of funds from one account to another within the same estate. Report transfers of funds on an additional paper. Report anytime you closed or opened an account, cashed in or purchased an insurance policy, or any other transfer of funds in which the original form of the asset is discontinued or a new asset is obtained.

After you finish List B, put the total at the bottom of the page on line B of page 1.

LIST C: SCHEDULE OF ALL GAINS DURING THIS ACCOUNT PERIOD:

- ◆ On List C put in the details of sales with gains. This includes the date of sale, purchaser (person sold to), description of what was sold, and the amount gained (sale price minus fees, and minus the value of the asset as reported in the previous Account or Inventory and Appraisalment). If you sold an asset but had no gain and no loss, you must still report the transaction and list the gain as zero.
- ◆ You should also list other increases to the estate on List C and add them to the total at the bottom of the page. Increases to the estate may include: assets you did not know about at the last accounting but now you do; assets that increased in value since the last accounting, such as investments or insurance, and so forth. You should only show increases or decreases in value of an asset if the value can be supported by documentation (such as a written appraisal, or when the market value is easily available, as for securities).
- ◆ For most assets other than investments or insurance, it is not necessary to adjust the values of the assets. You do not need to obtain appraisals (or otherwise incur unnecessary expenses) to adjust an asset's value for an account. However, if you are aware of a significant change in value of an asset, you should mention it in a note at the bottom of List C.
- ◆ Show marketable securities at the carrying value and the current value in a separate list on investments. The difference between these values is the adjustment. If you want to carry the investment at the carrying value (no adjustment made), you should still attach another list on investments showing the carrying values with the current market values (the same information needed for an adjustment). This is necessary to assess your investment performance and the appropriate bond level when you prefer not to adjust assets such as marketable securities to current market value.

After you finish List C, put the total at the bottom of the page on line C of page 1.

LIST D: MONEY SPENT (DISBURSEMENTS) DURING THIS ACCOUNT PERIOD:

- ◆ Now you need to list money you spent on behalf of the estate during the Account period. Only include items which are expenses of the estate. List the date, person you paid, purpose of expense, and amount. If the expense is unusual or appears questionable, you should provide additional information in a note attached to List D.
- ◆ If you have many transactions to report (generally more than 4 pages), group them into categories. For example, all expenses for nursing care may be shown on one line. These categories must be specific. Categories such as "miscellaneous" and "cash" are not acceptable. Grouped expenses must also list purpose and payee. In addition, if you group the receipts together, you must keep a back-up schedule detailing the money received under each group and attach a copy of the back-up schedule to this form.
- ◆ Transfer of funds are not receipts or disbursements and should be reported on a paper attached to List B. A "purchase" for purposes of investment is a transfer of funds and not a disbursement.
- ◆ Distributions of an estate in probate are also reported on List D. Describe each disbursement by date, payee, purpose, and amount.

After you finish List D, put the total at the bottom of the page on line D of page 1.

LIST E: SCHEDULE OF LOSSES DURING THIS ACCOUNT PERIOD:

- ◆ List all losses and show the date, the purchaser, a description of the transaction, and the amount of loss. Loss means price minus fees and minus the carrying value of the asset (the value of the asset as you reported it in the previous Account or Inventory and Appraisalment). If you sold an asset at neither a gain nor a loss, report the transaction and show a gain of zero in List C.
- ◆ List other decreases to the estate. Decreases may include decreases in values of assets, loss of assets, and so forth. As with gains, you should only list a decrease in value if they are supported with documentation such as an appraisal, or are readily ascertainable, as with value of marketable securities. List all adjustments to the value of marketable securities with carrying value and current market value.

- ◆ For most assets which are not investments you do not need to adjust the value, but you should disclose a significant loss in value in a note at the bottom of List E. For example you cannot take depreciation adjustments. If you are aware that the property is worth well below the carrying value, you should state your estimate of the current value on List E.

After you finish List E, put the total at the bottom of the page on line E of page 1.

LIST F: VALUE OF PROPERTY AT END OF ACCOUNTING PERIOD:

- ◆ List everything remaining in the estate at the end of the accounting period. This is the state of all assets after all the transactions of the Account have occurred.
- ◆ List all assets that exist at the end of the account period. Be specific so that the assets can be identified and located (account numbers, banks, property addresses). As with List A, also include any debts owed or liens on the assets, like a house or automobile. Include the following information about the debt or lien: the payee, the principal balance, interest rate, and the pay-off date. Finally, label any restricted assets as "restricted."

After you finish List F, put the total at the bottom of the page on line F of page 1.

GO BACK TO THE ACCOUNT SUMMARY: Now that you have completed Lists A through F, check to be sure you filled in the blanks on the Account Summary as follows:

- ◆ Enter the beginning balance of the account from the total at the bottom of List A;
- ◆ Add the total money received during the account period from the total at the bottom of List B;
- ◆ Add the gains on property from the total at the bottom of List C;
- ◆ Subtract the money spent (disbursed) from the total at the bottom of List D;
- ◆ Subtract the losses on property from the total at the bottom of List E;
- ◆ The total should be the same as the total you entered at the bottom of List F.

COMMON ERRORS: These are common errors the Court Accountant finds in Accounts.

- ◆ **Addition.** The total at the bottom of each list must be the same as the amount you put on the Account Summary, page 1. Double-check all the totals on your lists.
- ◆ **An incorrect beginning balance.** The beginning balance must match the ending balance of the previous Account or Inventory. If the ending balance of the previous Account or the Inventory was wrong, use it anyway, and make corrections on List C for gains or List E for losses, and explain what you are doing.
- ◆ **Value of assets on Lists A and F.** All valuable estate assets should be included on both lists.
- ◆ **Social Security Income survivor benefits for minors.** Often, the proceeds of a settlement are properly reported but the conservator for the minor fails to report the Social Security benefits received. Report these benefits as receipts on List B, and report expenditures of these funds on List D.
- ◆ **Omission of expenses on List D that were not paid by check.** Generally, you should not make cash withdrawals. You should use checks whenever possible to document the expenses. If you do pay for something other than by check, save all vouchers, receipts, statements, and other supporting documentation to prove the transaction, in case of questioning or audit. This includes bank charges and cash withdrawals.
- ◆ **Bond increase.** The bond should be set to cover the unrestricted assets plus the unrestricted income of one accounting period (generally one year). Often, the fiduciary fails to ask for a bond increase when the estate assets have increased from what they were the previous year.
- ◆ **How to describe an expense.** "Reimbursement" is not an adequate description for a disbursement. You must state the purpose of the expense, not just that you were paid back. If an expense is incurred pursuant to a Court order, the description of the disbursement should say this, and the date of the Court order.
- ◆ **Unusual expenditures** with no explanation will be questioned. If there has been an unusual expenditure and/or a substantial change in the expenditures when compared to a prior account, you should provide a written explanation along with the Account.
- ◆ **Payments to credit cards** and other similar disbursements may be questioned. You should state whether the expenditure was made on existing charges before you took over this administration. If you are using credit, you must report the expenditures made on credit in detail. The court might require you to submit credit card statements for the accounting period and/or from the time you were appointed.